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ATTACHMENT

International Application No. PCT/DK2004/000037	International Filing Date 22 January 2004	Attorney Docket No. 900.45210X00
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1. International Publication No. WO 2004/064528 A1-Cover Sheet
2. Notification of Transmittal of the International Preliminary Report on Patentability;
3. PCT International Preliminary Report on Patentability;
4. International Search Report

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## PATENT COOPERATION TREATY



PCT

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## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P14156PCDK	<b>FOR FURTHER ACTION</b>		See Form PCT/IPEA416
International application No. PCT/DK2004/000037	International filing date (day/month/year) 22.01.2004	Priority date (day/month/year) 22.01.2003	
International Patent Classification (IPC) or national classification and IPC A22B3/00			
Applicant LINCO FOOD SYSTEMS AS			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau a total of 9 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand  20.08.2004		Date of completion of this report  25.02.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer  Kock, S  Telephone No. +49 89 2399-2173 	

**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
PCT/DK2004/000037

**Box No. I Basis of the report**

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
    - ☐ international search (under Rules 12.3 and 23.1(b))
    - ☐ publication of the international application (under Rule 12.4)
    - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

**Description, Pages**

8 as originally filed  
1-7 received on 18.01.2005 with letter of 14.01.2005

**Claims, Numbers**

1-8 received on 18.01.2005 with letter of 14.01.2005

**Drawings, Sheets**

1/2-2/2 received on 18.01.2005 with letter of 14.01.2005

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
    - ☐ the description, pages
    - ☐ the claims, Nos.
    - ☐ the drawings, sheets/figs
    - ☐ the sequence listing (*specify*):
    - ☐ any table(s) related to sequence listing (*specify*):
  4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
    - ☐ the description, pages
    - ☐ the claims, Nos.
    - ☐ the drawings, sheets/figs
    - ☐ the sequence listing (*specify*):
    - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-4
Inventive step (IS)	Yes: Claims	5-8
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-8
	No: Claims	

2. Citations and explanations (Rule 70.7):

**see separate sheet**

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**Box No. VII Certain defects in the international application**

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The following defects in the form or contents of the international application have been noted:

**see separate sheet**

**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

- 1) A method according to the preamble of independent claim 1 is known from D1 = US-A-6 174 228. Claim 1 further comprises the features "...the influence of the gas for stunning of the animals is adjusted by reducing or prolonging the conveying time **and/or** the active conveying route length of the animals on said conveyors through the stunning chamber".

From D1, column 4, lines 35-44, it is known that the influence of the stunning gas can be adjusted by varying the speed of the conveying belt (i.e. "prolonging or reducing the conveying time") and by adjusting the length of the conveying chamber/zone by means of for example curtains (i.e. "adjusting the active conveying route").

The subject-matter of claim 1, both the "or" and the "and" version, thus lacks novelty over D1 (Article 33(2) PCT).

- 2) The subject-matter of claim 2 (increase or reduce speed of conveyor) is disclosed in D1; column 4, line 38 (Article 33(2) PCT).

The subject-matter of claim 3 (reducing or prolonging the active conveyor runs) is disclosed in D1; column 4, line 40 (Article 33(2) PCT). The active length is seen as the part of the conveying path, ie. tunnel, wherein the stunning gas affects the animals.

The subject-matter of claim 4 (varying the gas concentration) is likewise disclosed in D1; column 4, lines 44-53 (Article 33(2) PCT).

- 4) The device as defined in claim 5 (and dependent claims 6-8), ie. either successive downwards running conveyors having an intermediate horizontal conveyor, the conveyors having mutually interacting telescopic members for adjusting the conveying route length or a helical conveyor interacting with a horizontal, telescopic conveyor is neither disclosed in nor rendered obvious by the available prior art (Article 33(2)(3) PCT).

**INTERNATIONAL PRELIMINARY  
REPORT ON PATENTABILITY  
(SEPARATE SHEET)**

International application No.

**PCT/DK2004/000037**

**Re Item VII**

**Certain defects in the international application**

- 5) Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in D1 is not mentioned in the description, nor is this document identified therein.